

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CELSA M. ORTIZ-ALFARO

Plaintiff

vs

CIVIL 96-2433CCC

SISTEMA UNIVERSITARIO ANA G.
MENDEZ

Defendant

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U.S. DISTRICT COURT
SAN JUAN, P.R.

ORDER

Presently before the Court is defendant's Motion in Limine Regarding Witnesses not Announced During Discovery (**docket entry 46**) to which plaintiff filed a brief Opposition (**docket entry 52**) alleging that the same is moot because the matter was resolved at the pretrial conference before U.S. Magistrate Judge Justo Arenas. The Magistrate Judge's Pretrial Conference Report (**docket entry 49**) points out that most of the additional witnesses announced were withdrawn by plaintiff and that, as to Dr. Báez, he was decedent's treating physician. The Proposed Pretrial Order reflects that of the sixteen (16) additional witnesses objected to by defendant plaintiff eliminated eleven (11). (See pp. 10-11 and 18.) One of the remaining witnesses, Luis R. Díaz, also appears listed as a defendant witness.

Considering that the number of unannounced witnesses has been narrowed to four and that defendant has been placed on notice since December 1998 of plaintiff's intention to present them, the Motion in Limine (**docket entry 46**) is DENIED.

RECD.	TO JUDGE
SEP 17 1999	
BY <i>WB</i>	# 70

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Considering that Dr. Báez was not retained to provide expert testimony under Rule 702 and that he is being presented as the decedent's treating physician, plaintiff does not have to comply with Rule 26(a)(2)(B). Defendant is allowed to depose Dr. Báez within the term of sixty (60) days after notice of this order and to retain an expert witness thirty (30) days after the taking of the Báez' deposition. Defendant must comply with Rule 26(a)(2)(B) since this witness fall within the category of expert testimony.

SO ORDERED.

At San Juan, Puerto Rico, on September 15, 1999.


CARMEN CONSUELO CEREZO
United States District Judge

S/c: M. Conesa
W. Seigel

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